

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

**Minutes
October 19, 2005
9:30 a.m.**

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, October 19, 2005 in Nashville, Tennessee at 9:30 a.m. Commissioners John Jones, Harlan Mathews and Cynthia Bond were present. Executive Director Danielle Elks, Assistant Director Carolyn Smith and ASAC Andy Woodall from the staff were present.

- 1. The Minutes for September 15, 2005 Commission Meeting were approved**
- 2. RETAIL PACKAGE STORES:**

A. OLD BUSINESS

- 1. GRAPEVINE WINE
BRENTWOOD, TENNESSEE (WILLIAMSON COUNTY)**

Licensee/Seller: John A. Lee
Applicant/Buyer: Grapevine Wine and Spirits, LLC
Members: John A. Lee, Jr. and Gary Sasser

This matter was continued from the September 15, 2005 meeting to provide time for the applicant to submit additional requested information. The summary of the application appears below:

Before the Commission is a request for a transfer of ownership of retail package store located at 8109 Moores Lane, in Brentwood, Tennessee. Mr. John Lee desires to transfer part of his ownership interest in the business to Mr. Gary Sasser, and operate the business as a limited liability company. Mr. John Fields would serve as the company's Secretary, and Mr. Lee and Mr. Sasser would each own 50% of the stock. At the time of the creation of the agenda, it is unknown how much Mr. Sasser is investing in the business. All documentation has been submitted with the exception of the following:

- a. New sales tax number;
- b. TABC Inspection;
- c. Acknowledgement of the Rules and Regulations;
- d. Verification that John A. Lee, John A. Lee, Jr. and John E. Lee is the same person;
- e. Background Information Sheets completed for Mr. Lee and Mr. Sasser; Questionnaires for Mr. Lee, Mr. Sasser, and Mr. Fields;

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- f. Bank Check for Mr. Sasser;
- g. Bill of Sale; and
- h. Updated Use and Occupancy.

Discussion/Action Taken at the September, 15, 2005 meeting:

Director Elks reviewed the application for the Commissioners. She recommended to the Commission to continue this matter to the October meeting. Chairman Jones requests that the applicants be informed that the staff would appreciate their response to the needed documents. Chairman Jones made a motion to continue this matter to the October meeting and Commissioner Mathews seconded the motion. The motion passed with 2 ayes.

Discussion/Action Taken at the October 19, 2005 meeting:

Mr. John Fields was present at the meeting. Director Elks reviewed the application for the Commissioners and stated that all documentation had been received. She recommended approval. Commissioner Bond made a motion to approve. Commissioner Mathews seconded the motion. The motion passed with 3 ayes.

B. NEW BUSINESS

**1. G & L WINE AND SPIRITS
MT. PLEASANT, TENNESSEE (MAURYCOUNTY)**

Applicant: G & L Wine and Spirits, Inc.
Stockholders: Lisa and Gilbert Walker

Before the Commission is a request for a new retail store to be located at 1740 North Main Street, Suite E, in Mt. Pleasant, Tennessee. Mr. and Mrs. Walker intend to initially invest approximately \$100,000 in this business, and operate as a corporation. Mr. Walker would serve as the corporation's president, and Mrs. Walker would serve as the corporation's secretary. Financing is based upon personal funds and a loan with Community First Bank. All documentation has been submitted with the exception of the following:

- a. Tax Stamp in the corporation's name;
- b. Questions 7 and 18 on the application answered;
- c. Copy of the loan agreement;
- d. TABC Inspection, and
- e. Acknowledgement of the Rules and Regulations.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She stated that Lisa and Gilbert Walker had submitted Certificate of Compliances, however, the Certificates were issued before they ran the newspaper notices. The newspaper notices have since been run and the TABC has requested another Certificate of Compliance dated after the publication of the newspaper notice. Director Elks stated that the applicant has requested a Certificate of Compliance from the Mayor's Office and it is forthcoming. Upon submission of the loan agreement, TABC Inspection, Acknowledgment of the Rules and Regulations, and updated Certificate of Compliances that Director Elks recommends approval. Chairman Jones made a motion to approve upon submission of the pending documentation. Commissioner Mathews seconded the motion. The motion passed with 3 ayes.

**2. VOLUNTEER WINE & SPIRITS
LEBANON, TENNESSEE (WILSON COUNTY)**

Applicant: Volunteer Wine & Spirits, Inc.
Stockholders: George E. West, III

Before the Commission is a request for new retail store to be located at 703 South Cumberland in Lebanon, Tennessee. If approved, Mr. George E. West, III intends to initially approximately \$125,000, and will operate the business as the corporation, Volunteer Wine and Spirits, Inc. Mr. West would be the sole stockholder and President/Secretary of the corporation. Financing is based upon retirement funds and the sale of land. All documentation has been submitted with the exception of the following:

- a. Verification of Mr. West's retirement from Tennessee Wine and Spirits;
- b. Lease from Joyce Barry to Barry-Bobo, LLC
- c. TABC Inspection;
- d. Use and Occupancy Permit; and
- e. Acknowledgement of the Rules and Regulations.

Discussion/Action Taken:

Mr. George E. West, III was present at the meeting. Director Elks reviewed the application for the Commissioners and recommended approval upon submission of the TABC Inspection, Acknowledgment of the Rules and Regulations and the Use and Occupancy Permit. Chairman Jones made a motion to approve upon submission of the pending document. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**3. THE FORKED VINE WINE AND SPIRITS (Current d/b/a
Metro Wine and Spirits)
JACKSON, TENNESSEE (MADISON COUNTY)**

Licensee/Seller: David W. Shirley
Applicant/Buyer: The Forked Vine Wine and Spirits, LLC
Stockholders: John Everett

Before the Commission is a request for a transfer of ownership for the store located at 715 Old Hickory Boulevard, in Jackson, Tennessee. Mr. John Everett desires to purchase the business, and if approved, operate the business as a limited liability company with himself as the sole member. Mr. Everett intends to initially invest \$350,000; the purchase price for the business is \$600,000, plus 78.7% of the retail cost of existing inventory. Financing is based upon a loan from the Bank of Jackson in the amount of \$775,000. All documentation has been submitted.

If approved, Mr. Everett requests a **name change** to The Forked Vine Wine and Spirits.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She recommended approval. Commissioner Mathews made a motion to approve. Commissioner Bond seconded the motion and it passed with 3 ayes. Director Elks stated that they requested a name change to The Forked Vine Wine and Spirits if approved. Commissioner Mathews made a motion to approve the name change. Commissioner Bond seconded the motion and it was approved with 3 ayes.

**4. HIGH NOTE LIQUORS
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Licensee: ESH, Inc.
Stockholder: Elizabeth M. Hobbs

Before the Commission is a request to transfer location of an existing retail store currently located at 2621 McGavock Pike in Nashville, Tennessee. The new location would be 2471B McGavock Pike also in Nashville. This request for a transfer of location is because the property where the business is located is being sold, and the new location is larger. It should be noted that this transfer was approved in April, 2005; however, never occurred. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy Permit;
- b. TABC Inspection; and
- c. Letter of explanation for the delay, and updated request.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She recommended approval upon submission of the Use and Occupancy Permit and the TABC Inspection. Commissioner Bond made a motion to approve upon submission of the pending documentation. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**5. KIRBY WINES AND LIQUORS
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee: Terry Woodard

Before the Commission is a request for a transfer location of an existing package store currently located at 6548 Quince Road, in Memphis, Tennessee. The proposed location is 2865 Kirby Parkway, in Memphis, Tennessee. The request for the transfer of location is primarily based upon a change in traffic patterns, but also because the location has become unsafe. Further, Mr. and Mrs. Woodard own the new location. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy Permit; and
- b. TABC Inspection.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She recommended approval upon submission of the Use and Occupancy Permit and the TABC Inspection. Commissioner Mathews made a motion to approve upon submission of the pending documentation. Commissioner Bond seconded the motion and it passed with 3 ayes.

**6. CHEERS OF KINGSTON WINE AND SPIRITS
KINGSTON, TENNESSEE (ROANE COUNTY)**

Applicant: Carl A. Austin, Jr.

Before the Commission is a request for a new package store to be located at 517 N. Kentucky Street, in Kingston, Tennessee. If approved, Mr. Carl Austin, Jr. will operate the business as a sole proprietorship. Mr. Austin

intends to initially invest approximately \$180,000: financing is based upon a line of credit for \$150,000 with Citizens National Bank and existing personal funds. All documentation has been submitted.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She recommended approval. Commissioner Mathews made a motion to approve. Commissioner Bond seconded the motion and it passed with 3 ayes.

3. WINERIES: J-6 WAIVERS

T.C.A. §57-3-207 allows Tennessee wineries to provide complimentary samples for tasting at the winery if such winery uses certain percentages of agricultural products produced in Tennessee in its wine production. This same statute provides that wineries may request a waiver of the requirement to use Tennessee agricultural products if the commissioner of agriculture certifies that the source or sources of Tennessee agricultural products anticipated by the requesting winery will not be available in whole or in part for some reason which the winery had no control. To qualify for the waiver, the winery must have filed statements and/or contracts with the TABC on or before June 15 of the current year indicating what products the winery anticipates using in its production. If the waiver is granted, then the winery may obtain product from out-of-state for use in producing its wine.

The Tennessee Department of Agriculture has provided certification to the TABC that all grape varieties—with the exception of **Catawba**—are no longer available in Tennessee. This lack of Tennessee grapes appears to be because of the cold temperatures in late April and high winds from the late season hurricanes. The Tennessee Department of Agriculture further certifies that other fruits are insufficient in quantity in Tennessee.

The following wineries timely filed contracts and/or statements with the TABC and have requested the J-6 waivers:

A. Apple Barn Winery (Sevierville, Tennessee)

Apple Barn Winery requests a J-6 waiver for the following products, all of which have been certified by the Tennessee Department of Agriculture to be unavailable from Tennessee producers:

Riesling (8 tons), Cayuga (18 tons), Niagra (15 tons), Muscadine (20 tons), Merlot (15 tons), Strawberry (15 tons), Raspberry (20 tons), Chenin Blanc (30 tons) and peach (10 tons) .

B. Holly Ridge Winery and Vineyard (Livingston, Tennessee)

Holly Ridge Winery and Vineyard requests a J-6 waiver for the following products, all of which have been certified by the Tennessee Department of Agriculture to be unavailable from Tennessee producers:

Rhubarb (60 gallons), Reisling (120 gallons), Chardonnay (60 gallons), Cabernet (1 ton), and Tramenette (120 gallons).

C. Smokey Mountain Winery (Gatlinburg, Tennessee)

Smokey Mountain Winery requests a J-6 waiver for the following products, all of which have been certified by the Tennessee Department of Agriculture to be unavailable from Tennessee producers:

Chambourcin (500 gallons), Leon Millot (1100 gallons), Carlos Muscadine (7000 gallons), Riesling (600 gallons), and Geisenhiem (600 gallons).

D. Beachaven Vineyards and Winery (Clarksville, Tennessee)

Beachaven Vineyards and Winery requests a J-6 waiver for the following products, all of which have been certified by the Tennessee Department of Agriculture to be unavailable from Tennessee producers:

Muscadine (2500 gallons), Blackberry (4500 gallons), Cabernet Sauvignon (900 gallons), Chardonnay (1600 gallons), Concord (3300 gallons), Gewurztraminer/Traminette (5000 gallons), Niagara (550 gallons), Riesling (5400 gallons), Vidal Blanc (550 gallons), and Viognier (1300 gallons).

E. Mountain Valley Vineyards (Pigeon Forge, Tennessee)

Mountain Valley Vineyards requests a J-6 waiver for the following products, all of which have been certified by the Tennessee Department of Agriculture to be unavailable from Tennessee producers:

Concord (10 tons), Cayuga White (20 tons), Niagra (15 tons), Muscadine (30 tons) Cabernet Sauvignon (10 tons), Riesling (10 tons), Blackberry (30 tons), and Chenin Blanc (25 tons).

F. Highland Manor (Jamestown, Tennessee)

Highland Manor requests a J-6 waiver for the following products, all of which have been certified by the Tennessee Department of Agriculture to be unavailable from Tennessee producers:

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Muscadine (7500 gallons), Chardonnay (550 gallons), Seyval Blanc (550 gallons), and Cayuga White (7500 gallons).

****It should be noted however, that Highland Manor has not submitted grape contracts to the TABC pursuant to T.C.A. §57-3-207.**

G. Summer Crest Winery (Portland, Tennessee)

Summer Crest Winery requests a J-6 waiver for the following products, all of which have been certified by the Tennessee Department of Agriculture to be unavailable from Tennessee producers:

Riesling (6 tons), Vidal Blanc (4 tons), Concord (14 tons), and Chambourcin (5 tons).

H. Stonehaus Winery (Crossville, Tennessee)

Stonehaus Winery requests a J-6 waiver for the following products, all of which have been certified by the Tennessee Department of Agriculture to be unavailable from Tennessee producers:

Concord (4600 gallons), Blackberry (1100 gallons), Chardonnay (1200 gallons), Muscadine (5000 gallons) and Merlot (1600 gallons).

I. Savannah Oaks Winery (Delano, Tennessee)

Savannah Oaks Winery grows its own crop, and does not have contracts with Tennessee producers. However, it is requesting a J-6 waiver for the following products, all of which **but one** have been certified by the Tennessee Department of Agriculture to be unavailable from Tennessee producers:

Merlot (550 gallons), Chambourin (550 gallons), Steuben (550 gallons), Foch (550 gallons), and Niagara (650 gallons).

****Savannah Oaks has also requested a J-6 Waiver for 650 gallons of Catawba; however, the Department of Agriculture has not certified the unavailability of the Catawba grapes. Further, it should be noted that Savannah Oaks has not submitted grape contracts to the TABC pursuant to T.C.A. §57-3-207.**

J. Old Millington Vineyard and Winery (Millington, Tennessee)

Old Millington Vineyard and Winery requests a J-6 waiver for the following products, all of which have been certified by the Tennessee Department of Agriculture to be unavailable from Tennessee producers:

Muscadine (825 gallons).

****It should be noted however, that Old Millington Vineyard and Winery has not submitted grape contracts to the TABC pursuant to T.C.A. §57-3-207.**

K. Strikers' Premium Winery (Athens, Tennessee)

Strikers' Premium Winery requests a J-6 Waiver for the following products, all of which have been certified by the Tennessee Department of Agriculture to be unavailable from Tennessee producers:

Cabernet Sauvignon (500 gallons) and Blackberry (400 gallons).

****It should be noted however, that Striker's Premium Winery has not submitted grape contracts to the TABC pursuant to T.C.A. §57-3-207.**

L. Tennessee Valley Winery (Louden, Tennessee)

Tennessee Valley Winery requests a J-6 Waiver for the following products, all of which have been certified by the Tennessee Department of Agriculture to be unavailable from Tennessee producers:

Cabernet (5 tons), Riesling (536 gallons), Gewurtztraminer (268 gallons), Blackberries (5 tons), Cherries (300 gallons), and Muscadine (5000 gallons).

Discussion/Action Taken:

Director Elks reviewed information regarding the J-6 Waivers for the Commissioners. J-6 Waivers allow the wineries to obtain fruit and grape juice from out of state. Tennessee Statutes require Tennessee Wineries to use grapes and fruits grown in state to the extent they are available. By June 20, wineries are to submit to the TABC their contracts with Tennessee vineyards and fruit growers. By August or September of that year, the Tennessee Department of Agriculture certifies that all of the grapes have been purchased and/or that there are no more grapes and fruit to be had in Tennessee. The Tennessee Department of Agriculture certifies to the Commission the varieties of grapes are no longer available in Tennessee. The staff received that letter from the Department of Agriculture which certified that all grape varieties with the exception of Catawba Grapes, were no longer available in Tennessee. They also certified that there were no further fruits available in

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Tennessee. Director Elks stated that the majority of the wineries had submitted their contracts with the exception of Highland Manor, Savannah Oaks Winery, Old Millington Vineyard and Winery and Striker's Premium Winery. They had not submitted the contracts to the Commission in the timely manner and that is a prerequisite to obtaining the J-6 Waivers. Highland Manor and Striker's Premium Winery have submitted their contracts, although the contracts were late and this is in violation of T.C.A. §57-3-207. Savannah Oaks and Old Millington Vineyard and Winery have advised that they will be submitting their contracts. All of the wineries with the exception of Savannah Oaks and Old Millington currently meet the requirements for a J-6 Waiver. Director Elks recommended a \$100 citation for the late submission of the documents, but still grant the J-6 Waiver to Highland Manor and Striker's Premium Winery. She requested that the J-6 Waivers not be issued to those wineries that did not file contracts or were delinquent in filing contracts, until the fines have been paid. Chairman Jones made a motion to approve the issuance of J-6 Waivers to all the wineries listed with the exception of Highland Manor, Savannah Oaks Winery, Old Millington Vineyard and Winery and Striker's Premium Winery upon payment of the citation and the submission of the contracts for those wineries, then the J-6 Waivers would be granted. Commissioner Mathews seconded the motion and it passed with 3 ayes.

Chairman Jones requested inquired if an audit has done on the wineries to verify that they have adequate Tennessee supplied grapes. Director Elks stated that the staff plans to do an audit, but that one has not been done in the past. Chairman Jones stated that he would like to have an audit done on the wineries.

Jennifer Albrecht, lobbyist for the Tennessee Winery Association, summarized the wineries perspective of J-6 Waivers: She stated that they could be small wineries, grows their own grapes or are buying their grapes from other Tennessee wineries. She stated that they are checked for compliance for not buying Tennessee grapes by the Tennessee Department of Agriculture. Ms. Albrecht stated that the wineries work closely with Dr. David Lockwood with the U. T. Agriculture Services and he works with the farmers in Tennessee on grape production. He verifies with the Department of Agriculture that he has checked with the farmers and verified that there is not enough of a supply of grapes and that he cannot find any farmers for the grapes.

Commissioner Mathews asked Ms. Albrecht if current statutes or rules inhibit the growth of the industry. Ms. Albrecht stated that she will be submitting some proposed rule changes or comments to the rule proposals that have been made. She stated there are laws that inhibit the growth of the industry and they introduced legislation last year to change that. The legislation ran into extreme amounts of opposition from other industries and that they would meet next month with Senator sponsors and discuss if we need to make any changes to the statutes. She stated that legislation last year to change that. The legislation ran into extreme amounts of opposition from other industries and that they would meet next month with Senate

sponsors and discuss if we need to make any changes to the statutes. She stated that the legislation they proposed last year was to change the gallonage amount. She stated that they can now offer complimentary samples and sale at retail if we meet certain criteria and that would be that the wineries buy our fruit from Tennessee farmers up to a certain percentage and then the wineries can apply for a J-6 Waiver if the fruit is not available and bring the fruit from out of state only up to a certain gallonage and then they cannot produce any more. She stated that the wineries would like to have their gallonage increased so they could sell their wine at their wineries and retailers across the State. Chairman Jones stated that he would be interested in having the Commission have an informal working session with vintners and growers to understand the process. Ms. Albrecht stated that she could arrange with Beachaven Winery to have a tour of their winery. She stated that she could have some of the other wineries to be available to speak about ways that they would do things differently than Beachaven. Chairman Jones stated that he would like to know the information about harvesting and grape growing which is what the Commission is interested in. Ms. Albrecht stated that she said she would see if she could arrange for Dr. Lockwood from the University of Tennessee's Department of Agriculture to be present at the session. She stated that there would be a meeting next month with Senator Bill Ketron, which the staff is going to be a part of, to discuss the legislation from last year and any common ground that the Association can meet with the other industry members.

4. CONTESTED CASES

LESLIE C. COCHRAN

Ms. Cochran is appealing the decision of TABC staff to deny her application for a server permit. On her application for a server permit, Ms. Cochran disclosed a 1999 conviction for the intent to manufacture, sell and deliver a schedule II controlled substance. T.C.A. §57-3-704 prohibits the issuance of a server permit to anyone who has been convicted of any crime relating to the sale of schedule 2 controlled substances within the previous eight (8) years. Because Ms. Cochran's conviction was in 1999 (more than four years ago, but less than eight years ago),

Senate Bill 1242 could potentially apply to her if it is passed by the General Assembly during the next legislative session.

Discussion/Action Taken:

Assistant Director Carolyn Smith reviewed the application for the Commissioners. She stated that the staff denied the application based on a conviction that she had in 1999 for the intent to manufacture, sell and deliver a Schedule 2 controlled substance. She stated that Ms. Cochran may be one of those situations where her conviction was more than four (4) years ago, but less than eight (8) years ago that she might benefit from the passage of SB 1242 if the Legislation

does pass during next Session. She recommended, based on the Commission's prior action, that Ms. Cochran's hearing be continued until action is taken on SB 1242. Commissioner Mathews made a motion to continue until action is taken on SB 1242 during the next session of the Tennessee General Assembly. Commissioner Bond seconded the motion and it passed with 3 ayes.

- 5. SPECIAL OCCASION LICENSES**
- 6. CONSUMER EDUCATION SEMINAR LICENSES**
- 7. PERSONNEL**
- 8. BUDGET**
- 9. CONSENT ORDERS**
- 10. PENDING MATTERS LIST**
- 11. MISCELLANEOUS**

A. Proposed Rulemaking Changes

Discussion/Action Taken:

Director Elks stated that the wineries will be submitting any proposed rulemaking changes and the staff will be reviewing the Proposed Rule Changes submitted by Industry. The Rulemaking process will move forward as follows: A meeting with the Industry Representatives will be held as a group and individually on an informal basis. Then, a formal rulemaking hearing on proposed rules will be conducted and then it will come before the Commission to determine which rules to accept and promulgate.

B. Malt Beverages

Discussion/Action Taken:

Gif Thornton, attorney, representing the Commission of the Tennessee Alcoholic Beverage Commission in a contested case involving flavored malt beverages, was present at the meeting. Mr. Thornton is an attorney at the Addington, Reed, Stokes & Bartholemew Law Firm in Nashville. He was attained three years ago to represent the Commissioners as the Executive Director, at the time, was performing the role of a party before you in terms of a contested case. Mr. Thornton stated that two things of great significance have occurred since he was last before the Commission. This case was suspended while the appropriate agency of the Federal Government was promulgating rules on how they would define and treat these flavored malt beverages on a national basis. Those rules were promulgated in

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January 2005. Subsequent to that, the Tennessee Legislature enacted a Bill this spring that changed the definition of beer to be consistent with the Federal Government definition of beer. The applicable portion of the definition now says that beer, in addition to being defined by its weight in terms of less than 5% of alcohol, also has a provision that says no more than 49% of its alcoholic content can come from flavoring elements that are distilled spirits. That definition is in the federal rules and now it is in the State statute. Mr. Thornton stated that should settle the issues that have been in dispute. The parties have been in contact with Mr. Thornton and Mr. Thornton suggests that everyone is prepared to dismiss this contested case before the Commission if they can obtain an agreement and an assurance in writing from the agency that the agency will follow the regulations at the federal level and the state definition consistent with the understanding that has been expressed. One part of that is that the rules go into effect the first of January 2006.

The issue now exists as to how the new law will be staged in terms of its implantation and products that are on the shelves that have not been sold. The understanding is that products that leave the brewery after January 2006 will be consistent with the new regulations. The question that arises is whether any product that is currently in the store would continue to be sold until that supply is exhausted even if inventory existed after January 2006.

Mr. Thornton suggested the Commission could act on this at this time, but there is time since these rules do not go into effect until January 2006. He recommended to the Commission he present a written report and recommendation at the November meeting with anticipation that the Commission would act then to direct staff to communicate with the parties along the lines that were discussed.

Commissioner Mathews asked Mr. Thornton what happens if no action is taken. Mr. Thornton stated that the rules go into effect and this case is still not settled. The breweries will be asking the staff how they are going to interpret the new law.

Mr. Thornton stated that there is not a motion filed before the Commission to dismiss this case. He stated that he would not recommend that the Commission take that action today. He stated that the action that is being requested is due to the change of the law and regulation, how the Commission will enforce the law. He recommended that the Commission not dismiss the matter without first sending out a notice to all of the parties.

Commissioner Mathews made a motion to allow the staff to communicate to the parties how it intends to comply with the new rules. Commissioner Bond seconded the motion and it passed with 3 ayes.

12. DATE OF NEXT MEETING – November 17 and December 15, 2005

There being no further business the meeting was adjourned.

Shari Danielle Elks
Executive Director

John A. Jones
Chairman